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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,400	11/21/2003	Charles Christopher Thorpe	3000177 / 703454-2001	2557

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Bingham McCutchen LLP
Suite 1800
Three Embarcadero Center
San Francisco, CA 94111-4067

EXAMINER	
VAN, QUANG T	

ART UNIT	PAPER NUMBER
3742	

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/719,400	THORPE ET AL.	
	Examiner	Art Unit	
	Quang T. Van	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,6-22,24-26,29,31-58,61,62,75,76,79,80,83,84 and 87-99* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,6-22,24-26,29,31-58,61,62,75,76,79,80,83,84 and 87-99* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 January 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-2, 6, 7-13, 14-15, 18-19, 24-26, 29, 31-38, 39-42, 45-47, 50, 53, 55-58, 61-62, 79-80, 83-84, 87-88, 89-99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levinson (US 4,923,704) in view of Wang et al (US 6,463,844) both cited in previous action. Levinson discloses, figure 7, a microwave cooking in a chamber kit comprising a microwaveable housing having a lower housing section (14) and an upper housing section (12); each housing section (12,14) defining an interior space, the upper housing section (12) being placed on top of the lower housing section (14) to close the microwaveable housing; and a grill (46) positioned within said lower housing section (14) and suspended above a bottom interior surface (41) of said lower housing section (14) said grill (46) defining a plurality of apertures (col. 11, lines 24-27) and having a surface that includes a metalized susceptor material (col.5, lines 6-10) for grilling the food item, wherein said lower housing section (14) and said grill (46) are structurally configured so that steam generated by heating positioned on said bottom surface of said lower housing section (14) below said grill (46) passes upwardly from said interior space of said lower housing section (14), through said grill apertures, onto at least a bottom surface of the food item, and into said interior space of said upper

housing section (col. 11, lines 23-44). However, Levinson does not disclose a gelatinous ingredient for said food item positioned in the lower housing section, wherein said gelatinous ingredient is not extracted from the food item. Wang discloses a gelatinous ingredient (21) for said food item positioned in the lower housing section (14), wherein said gelatinous ingredient is not extracted from the food item (col. 11, lines 32-37). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Levinson a gelatinous ingredient for said food item, wherein said gelatinous ingredient is not extracted from the food item as taught by Wang in order to add flavor to the cooking item when cooking. With regard to claims 6-14, 31-38, a solid, semi-solid gelatinous ingredient or flavoring material is considered material or article worked upon by apparatus. "Expressions relating the apparatus to contents thereof during an intended operation are no significance in determining patentability of the apparatus claim". *Ex parte Thibault*, 164 USPQ 666, 667 (Bd. App. 1969). Furthermore, "Inclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims". *In re Young*, 25 USPQ 69 (CCPA 1935) (as restated in *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In this case, a solid, semi-solid gelatinous ingredient or flavoring material is considered material or article worked upon which does not limit apparatus claims, therefore no patent weight is given to these claims.

3. Claims 3, 20-22, 43-44, 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levinson (US 4,923,704) in view of Wang et al (US 6,463,844) both cited in previous action, and further in view of Koochaki (US 6,229,131).

Levinson/Wang disclose substantially all features of the claimed invention except a housing including a vent. Koochaki discloses a microwave-cooking grill (100) having a housing including a vent (186). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Levinson/Wang a housing including a vent as taught by Koochaki in order to release the steam from the cooking housing.

4. Claims 16-17, 51-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levinson (US 4,923,704) in view of Wang et al (US 6,463,844) both cited in previous action, and further in view of Barnes (US 6,608,292). Levinson/Wang disclose substantially all features of the claimed invention except a connector that couples said lower and upper microwave housing sections. Barnes discloses a connector (212) that couples said lower (104) and upper microwave housing sections (102). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Levinson/Wang a connector that couples said lower and upper microwave housing sections as taught by Barnes in order to connect the upper and the lower housing section together.

5. Claims 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levinson (US 4,923,704) in view of Wang et al (US 6,463,844) both cited in previous action, and further in view of Craft (US 6,018,157). Levinson/Wang discloses substantially all features of the claimed invention except an inert gas being added into said microwaveable housing. Craft discloses an inert gas being added into said microwaveable housing (col. 4, lines 10-18). It would have been obvious to one having

ordinary skill in the art at the time the invention was made to utilize in Levinson/Wang an inert gas being added into said microwaveable housing as taught by Craft in order to repeated cooking cycles without requiring replacement and without significant degradation of the microwave grill.

6. Claims 75-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levinson (US 4,923,704) in view of Wang et al (US 6,463,844) both cited in previous action, and further in view of Thompson (US 3,669,688). Levinson/Wang disclose substantially all features of the claimed invention except the gelatinous ingredient including a corn syrup ingredient and an agar ingredient. Thompson discloses gelatinous ingredient including a corn syrup ingredient and an agar ingredient (col. 1, lines 58-72 and col. 2, lines 1-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Levinson/Wang gelatinous ingredient including a corn syrup ingredient and an agar ingredient as taught by Thompson in order to add flavor to the cooking item.

Response to Amendment

7. Applicant's arguments with respect to claims 1-3, 6-22, 24-26, 29, 31-58, 61-62, 75-76, 79-80, 83-84, 87-99 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T. Van whose telephone number is 571-272-4789. The examiner can normally be reached on 8:00Am 7:00Pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

QV
May 11, 2006

Quang T Van
Primary Examiner
Art Unit 3742